

REMARKS

The Office Action dated September 27, 2005, has been received and carefully noted. The above amendments and the following remarks are submitted as a full and complete response thereto.

By this Amendment, claims 1-4, 6, 7, and 9 have been amended. Support for the amendments to claims can be found on at least page 4, lines 12-17, and page 8 lines 25 to page 9, line 4 and page 9 lines 20-22 of the specification and in Figures 1 and 3 as originally filed. No new matter has been added. Claims 1-11 are pending and respectfully submitted for consideration.

Allowable Subject Matter

The Applicants wish to thank the Examiner for indicating allowable subject matter in claims 3-5 and 10. Claims 3-5 and 10 were not rewritten in independent form as they depend from claim 1 which is allowable for the reasons submitted below.

Rejections Under 35 U.S.C. § 112

Claims 1-11 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The Applicants have amended the claims responsive to the rejection and respectfully submit that all claims are in compliance with U.S. patent practice.

Rejections Under 35 U.S.C. § 102

Claims 1, 2, 6-9 and 11 were rejected under 35 U.S.C. § 102(b) as being anticipated by Bartnik (U.S. Patent No. 2,957,496). Claims 2, 6-9 and 11 depend from claim 1.

Claims 1 and 8 were rejected under 35 U.S.C. § 102(b) as being anticipated by Kinney et al. (U.S. Patent No. 5,899,564, "Kinney"). Claim 8 depends from claim 1.

To the extent that the above-noted rejections remain applicable to the claims currently pending, the Applicants traverse the rejections and respectfully submit that claims 1, 2, 6-9 and 11 recite subject matter that is neither disclosed nor suggested by the cited references.

Bartnik discloses a flow control valve having "a plurality of diaphragm members operating in parallel with each other . . .to give a much more accurate flow control than in one large control were used." See column 1, lines 37-40 of Bartnik. The Applicants submit that the valve of Bartnik is driven solely by the fluid flow, that is, by the pressure gradient of the valve.

With respect to claim 1, the Applicants respectfully submit that Bartnik fails to disclose or suggest the claimed features of the invention. Claim 1, as amended, recites means for actuating movable assemblies that control a height of a working gap of the blow-by port of the fluid. As a preliminary matter, the Applicants respectfully submit that the valve of Bartnik is a unidirectional check valve, and is thus, not suitable for homogenization. In addition, Bartnik does not disclose or suggest at least the feature of means for actuating movable assemblies that control a height of a working gap of the blow-by port of said fluid, as recited in amended claim 1.

Kinney discloses a homogenization valve having multiple, annular, valve members stacked one on top of the other. The central holes of the stacked members define a common, typically high pressure, chamber. Annular grooves are formed on the top and/or bottom surfaces of each valve member, concentric with the central hole. The

grooves are in fluid communication with each other via axially directed circular ports that extend through the members, and together the grooves and ports define a second, typically low pressure, chamber. See column 1, lines 47-56 of Kinney. The valve includes an inlet port 112, formed in an inlet flange 114 that conveys a high pressure fluid to a valve member stack 116. The high pressure fluid is introduced into an inner chamber 118 defined by the central holes 103 formed through the generally annular valve members 100. The high pressure fluid is then expressed through valve gaps 102 into a low pressure chamber 120 that is defined by the axial ports 122 through the valve members 100 and the annular grooves 124 in the valve members. The fluid passing into the low pressure chamber enters a discharge port 126 in a discharge flange assembly 130.

With respect to claim 1, the Applicants respectfully submit that Kinney fails to disclose or suggest the claimed features of the invention. Claim 1, as amended, recites that the at least two homogenization devices define correspondent distinct and coplanar annular gaps, serving as ports for the blow-by of the fluid. In contrast, as discussed above, Kinney discloses multiple, annular, valve members stacked one on top of the other. In Kinney, the central holes of the stacked members define a common, typically high pressure, chamber. Annular grooves in Kinney are in fluid communication with each other via axially directed circular ports that extend through the members, and together the grooves and ports define a second, typically low pressure, chamber. As such, Kinney does not disclose or suggest annular gaps which are operated in parallel and are not in fluid contact with each other. Specifically, Kinney fails to disclose or suggest at least the feature of at least two homogenization devices define

correspondent distinct and coplanar annular gaps, serving as ports for the blow-by of the fluid, as recited in amended claim 1.

As a result of the claimed invention, the homogenization valve is of a more simple construction and is more robust, than the valve in Kinney. In fact, the homogenization valve of the present invention provides the same robustness of a single homogenization valve since the valve of the present invention comprises a plurality of such valves operated in parallel. In contrast, the homogenization valve disclosed in Kinney requires the presence of serpentine valve springs/wave springs or other complicated technical solutions to maintain in a stack formation the valve members aligned with respect to each other. See column 4, lines 18-23 of Kinney. Second, the homogenization valve of the present invention, allows, in a very efficient and robust way, a uniform distribution of the fluid flow / pressure among the valve gaps, because the gaps are independent with respect to each other (not in fluid communication with each other) and supplied by a plurality of correspondent union fittings departing from a common high pressure channel. In contrast, a uniform distribution of fluid flow / pressure among the valve gaps is not possible in the homogenization valve of Kinney, since the valve gaps are in fluid communication with each other and thus, cannot be operated independently with respect to each other. As such, the Applicants respectfully submit that as Kinney does not disclose or suggest the features of the invention, Kinney cannot provide the critical and non-obvious advantages of the present invention.

According to U.S. patent practice, a reference must teach every element of a claim in order to properly anticipate the claim under 35 U.S.C. §102. In addition, "[a] claim is anticipated only if each and every element as set forth in the claim is found,

either expressly or inherently described, in a single prior art reference.” Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628,631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “Every element of the claimed invention must be arranged as in the claim. . . . [t]he identical invention must be shown in as complete detail as is contained in the patent claim.” Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236 (Fed. Cir. 1989) (emphasis added). The Applicants respectfully submit that Bartnik and Kinney do not disclose or suggest the features of the invention as arranged in claim 1. Accordingly, Bartnik and Kinney do not anticipate claim 1, nor is claim 1 obvious in view of Bartnik and Kinney. As such, the Applicant submits that claim 1 is allowable over the cited art.

Claims 2, 6-9 and 11 depend from claim 1 and are allowable for at least the same reasons.

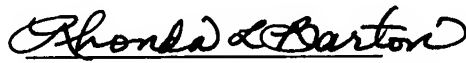
Conclusion

As noted above, claims 3-5 and 10 were indicated as containing allowable subject matter. Claims 2-11 depend from claim 1. The Applicants respectfully submit that each of claims 2, 6-9 and 11 incorporate the patentable aspects thereof, and are therefore allowable for at least the same reasons as discussed above. Accordingly, the Applicants respectfully request withdrawal of the rejections, allowance of claims 1-11 and the prompt issuance of a Notice of Allowability.

Should the Examiner believe anything further is desirable in order to place this application in better condition for allowance, the Examiner is requested to contact the undersigned at the telephone number listed below.

In the event this paper is not considered to be timely filed, the Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension, together with any additional fees that may be due with respect to this paper, may be charged to counsel's Deposit Account No. 01-2300, **referencing Attorney Dkt. No. 024931-00020.**

Respectfully submitted,



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Enclosure: Petition for Extension of Time (three months)